
UNITED STATES MARINE CORPS
THE BASIC SCHOOL
MARINE CORPS TRAINING COMMAND
CAMP BARRETT, VIRGINIA 22134-5019

LAW OF WAR

B120137XQ-DM

STUDENT HANDOUT

Law of War

Introduction

The Law of War is defined as that part of international law that governs the conduct of armed hostilities. Included in this lesson are the principles underlying the Law of War, as well as classification of persons that may be found on the battlefield. The Law of War is often referred to as the law of armed conflict (LOAC). The two terms are interchangeable. The Rules of Engagement (ROE) are those directives that delineate the circumstances and limitations under which United States (US) forces will initiate and/or continue combat engagement.

Importance

The importance of understanding the Law of War in the current operational environment cannot be overstressed. All we need to do is look at one of the several cases where questionable actions have been publicly showcased to understand its importance. It is imperative that we as leaders not only know what the Law of War is, but we also have the ability to conceptualize these principles and train our Marines to the same standards.

In This Lesson

Discussed here will be the Law of War, ROE, training our Marines, and the impact effectively conveying the tenets and principles of the Law of War and ROE can have on a unit.

Table of Contents

This lesson covers the following topics:

Topic	Page
Learning Objectives	3
Evolution of the Law of War	4
Principles of the Law of War	5
9 Rules of the Law of Armed Conflict	6
Classifications of Persons	7
Weapons and the Law of War	9
Tactics and the Law of War	11
Implications and Training Marines	11
Rules of Engagement	14
Purposes of Rules of Engagement	14
Rules of Engagement and National Security	15
Standing Rules of Engagement for US Forces	16
Training	24
Supplemental Rules of Engagement Card	25
Summary	26
References	27
Glossary of Terms and Acronyms	27
Notes	27

Learning Objectives

Terminal Learning Objectives:

TBS-UCMJ-1003 Given Marines, commander's guidance, and situations covered by the Law of War, enforce the Law of War so Marines conduct themselves in accordance with the Law of War and applicable U.S. policy during all military operations.

TBS-UCMJ-2102 Without the aid of references, identify Rules of Engagement without omission.

Enabling Learning Objectives:

TBS-UCMJ-1003a Without the aid of reference, identify the origins of the Law of War without omission.

TBS-UCMJ-1003b Without the aid of reference, identify Law of Armed Conflict principles without omission.

TBS-UCMJ-1003c Without the aid of reference, identify protections afforded to personnel under the Law of War without omission.

TBS-UCMJ-1003d Without the aid of reference, identify protections afforded to property under the Law of War without omission.

TBS-UCMJ-1003e Without the aid of reference, identify the Department of Defense nine rules of the Law of Armed Conflict without omission.

TBS-UCMJ-2102a Without the aid of reference, identify escalation of force principles in self/unit defense without omission.

TBS-UCMJ-2102b Without the aid of reference, define the term "Rules of Engagement" without error

Evolution of the Law of War

Definition and Purpose

According to Joint Chiefs of Staff (JCS) Publication (Pub) 1, the Law of War is defined as “*that part of war that regulates the conduct of armed hostilities.*” The purpose of the Law of War is to prevent unnecessary suffering, safeguard certain fundamental human rights of those involved in a conflict, and to ultimately restore peace.

Evolution and Development

During the late middle ages, war became a cultural event studied from both political and philosophical perspectives. Leaders around the world began to realize that unlimited warfare was counterproductive to most objectives. Common customary practices started to become internationally accepted acts.

Some examples include formal declarations of war, prisoner exchanges, protection of civilians and noncombatants, and communication between warring factions by neutral third parties. Some common historical examples of this progression include the Hague Convention of 1907 and the better-known Geneva Conventions of 1949. Some of the outcomes of the Geneva Convention include the protection of the sick and wounded during land conflict and at sea, treatment of prisoners of war, and protection of civilians during time of war. Again, several of the laws and regulations that we abide by today have been developed from international customary practices that have eventually become codified to international law.

Principles of the Law of War

Military Necessity

The principle of military necessity justifies the use of all measures needed to defeat the enemy as quickly and efficiently as possible in order to achieve victory. However, the actions against the enemy or the objective must not violate the Law of War. Military necessity may justify not only violence and destruction, but also alternative means of subduing the enemy. For example, military necessity may justify the capture of enemy persons, or non-forcible measures, such as propaganda and intelligence-gathering. This is the guiding principle for all of our actions while operating in combat. Once military necessity dictates that we engage, we must do so but in conjunction with the following principles.

Proportionality

Proportionality requires us to weigh the anticipated concrete and direct military advantage of an attack against incidental loss of civilian life, injury to civilians, or damage to civilian objects. In war, incidental damage to the civilian population and civilian objects is unfortunate and tragic, but inevitable. Thus, applying the proportionality principle in conducting attacks does not require the elimination of all incidental damage resulting from attacks. Rather, this principle requires us to refrain from attacking where the expected harm incidental to an attack would be excessive in relation to the military advantage anticipated to be gained. There is no mathematical formula for proportionality, and it requires commanders to make difficult subjective decisions based on the importance of a given military target and the incidental civilian damage that could result from an attack on that target.

Avoid Unnecessary Suffering

Suffering will never be eliminated from war. What we must ensure is that our decisions and actions minimize unnecessary suffering to the enemy as well as to any civilians and noncombatants involved. This includes the proportionate destruction of property that is relevant to the mission. All of our actions during the engagement as well as our subsequent interaction with the enemy and noncombatants should be guided by this principle.

Distinction

The concept of distinction requires that combatants be distinguished from noncombatants and that military objectives be distinguished from protected places. Parties to a conflict are required to direct their operations only against combatants and military objectives and will be discriminate in nature.

9 Rules of the Law of Armed Conflict

MCO 3300.4

The Marine Corps Law of War Program (MCO 3300.4) is derived from customary international law and applies the law of armed conflict to all Marines. It reflects the core principles described above and expands them to describe 9 “basic principles” or rules that apply to all Marines in any form of operation. They are:

1. Marines fight only enemy combatants.
2. Marines do not harm enemy combatants who surrender. Marines disarm them and turn them over to their superiors.
3. Marines do not torture or kill enemy prisoners of war or detainees. Marines treat them humanely.
4. Marines collect and care for the wounded, whether friend or foe.
5. Marines do not attack medical personnel, facilities, equipment, or chaplains.
6. Marines destroy no more than the mission requires.
7. Marines treat all civilians humanely.
8. Marines do not steal; they respect private property and possessions.
9. Marines do their best to prevent violations of the law of war, and report all violations to their superiors.

Classification of Persons on the Battlefield

Combatants

Combatants are defined as those who are lawfully entitled to engage in hostilities. These include:

- Members of the armed forces.
- Members of a regular militia or volunteer units.
- Members of guerrilla units.

Levee en Masse (members of a non-occupied nation who take up arms against an enemy).

Characteristics of a combatant include:

- Wearing of a fixed and distinct uniform.
- Open carriage of arms.
- Acting under the command of a responsible leader.
- Obeying the Law of War.

Combatants are protected under the Law of War.

Noncombatants

Noncombatants are those who may accompany combatants but do not perform in that capacity. Examples of noncombatants include:

- Correspondents
- Technical personnel
- Contractors
- Medical personnel
- Chaplains
- Other civilians

The Law of War states that these persons may not be the sole subjects of an attack, and warring parties must minimize damage to any noncombatant or civilian population involved. Noncombatants are also protected under the Law of War.

Spies

Spies are defined as those who act under false pretenses in order to obtain information and communicate that information back to a hostile or potentially hostile party. Spying is not a violation of the Law of War, but agents captured are prosecutable under the laws of the nation in which they are captured. Spies are not a protected party under the Law of War.

Classification of Persons on the Battlefield (Continued)

**Terrorists, Insurgents,
Saboteurs, Partisans**

Whether it is an individual terrorist initiating a car bomb in the West Bank or a cell of insurgents operating within Iraq, these groups are not protected by the Law of War. The *only exception* to this rule is if the parties act in line with the definition of a protected combatant.

**Detainees and Enemy
Prisoners of War (EPWs)**

All persons we detain on the battlefield, regardless of their status, are treated the same. All detainees have rights under the Geneva Convention that guide us in their handling. If they are injured, we provide treatment as if one of our own Marines. The following rules dictate our handling of detained persons:

- Search: Remove all weapons and items of possible intelligence from the detainee. Allow detainees whatever protective equipment is needed for safe transport to the detention facility.
- Silence: Do not allow detainees to converse with one another, as this may allow collaboration between them.
- Safeguard: Guard them, and allow no further actions against them, whether by other detainees or enemy forces. Ensure they receive the same protection as our Marines during movement to the detention facility.
- Segregate: This means separation of males from females, enlisted from officers, and also separation amongst religious or cultural affiliates.
- Speed: Ensure the proper process is conducted as quickly as possible, expediting the individual to the next stage of questioning or processing as soon as possible.
- Tag: Supervise proper documentation of their capture and ensure all the information collected arrives to the proper personnel in your unit.

Classification of Persons on the Battlefield (Continued)

Protected Places

Protected places are buildings or structures that are not considered valid military targets. Examples of these structures are:

- Hospitals.
- Churches.
- Mosques.

However, once enemy forces utilize these structures, they become valid military objectives; for example, enemy forces staging attacks from a hospital or an IED trigger-man utilizing a minaret of a mosque to conduct an attack on coalition convoys. In all practicality, in such situations, higher headquarters would be contacted and apprised of the situation.

Weapons and the Law of War

Lasers

Lasers are only to be used for their intended use, such as marking targets and terminal guidance of munitions. The US prohibits the use of any laser in order to cause blindness, though collateral injury sustained in the scope of their intended duty is seen as acceptable.

Small Arms Munitions

The Marine Corps defines small arms ammunition as those of 40mm size and below. The 1868 Declaration of St. Petersburg and the Hague Conventions of 1899 are the most current publications regarding ammunition.

The restrictions provided in the Declaration of St. Petersburg limit the use of exploding projectiles of a certain size. However, the Marine Corps does not recognize this document, nor is it accepted as international law.

The Hague Convention restricts the use of expanding ammunition. Though the US is not a party to this declaration, we follow this practice. However, hollow tipped ammunition (designed for increased ballistics) is permitted. All ammunition in current use by the Marine Corps are legal provided their employment is in accordance with the Law of War

Weapons and the Law of War (Continued)

Incendiaries	<p>Examples of these munitions include:</p> <ul style="list-style-type: none"> • Napalm. • Flame-throwers. • White phosphorus. <p>These weapons are lawful as long as utilized in a manner that does not cause unnecessary suffering</p>
Fragmentation	<p>Fragmentary ammunition (such as mortars and hand grenades) is legal as long as it is not used in an illegal manner such as against a protected structure.</p>
Landmines and Booby Traps	<p>Weapons in this category (such as Claymore mines) are authorized with the premise that suffering is minimized, and it is the most proportionate response to the threat.</p>
Riot Control Agents	<p>Riot control agents (such as pepper spray and tear gas) are incapacitating agents with effects that may last from a few hours to several days with no permanent injury. Typical use of these weapons centers on demonstration control. Presidential approval is the only authorization that allows these weapons to be used.</p>
Non-lethal Weapons	<p>Non-lethal weapons (such as rubber bullets and bean bag rounds) are lawful. However, these weapons have the capacity to seriously injure or kill if improperly employed. Marines designated to employ these weapons require significant training.</p>
Chemical and Biological Weapons	<p>Chemical and biological weapons are considered a “treacherous means of warfare” and are prohibited under the Law of War. The illegality of this weapon system is based upon the fact that once the weapon is unleashed, it is impossible to control and discriminate between combatants and noncombatants.</p>

Tactics and the Law of War

Ruses

A ruse is a tactic in which the actions injure the enemy as a result of legitimate deception. Examples include:

- Planting fictitious units via false information.
- Putting up dummy installations.
- False communication transmissions.
- Using a small force to simulate a larger unit. Ruses are accepted under the Law of War.

Treachery

Treachery is a means of injuring the enemy through his adherence to the Law of War. An example would be feigning, such as faking injury or truce in order to lure enemy into range to engage. Misuse of the Red Cross or any other noncombatant organization is also classified as a form of treachery. Treachery is a violation of the Law of War.

Assassination

Assassination is the act of specifically targeting a predominant person, usually an important political figure, to kill. Under the Law of War, targeting military leadership is legal; however, assassination of purely civilian heads of state is prohibited.

Reprisal

A reprisal attack is a like response to an illegal attack, such as a chemical response to a chemical attack. By definition, this act is supposed to get the enemy to adhere to the Law of War. This act is prohibited under the Law of War.

Implications and Training Marines

Implications

As mentioned earlier in this text, effectively conveying the tenets and principles of the Law of War will be one of the most challenging and important tasks you will do as an officer. Given the current operational environment, the importance of this subject cannot be understated. Implications as a result of lack of training or blatant violation can have tremendous effects on a unit.

Let's say we have killed a town elder during an indiscriminate response to an enemy sniper. Local authorities have been notified, and media is on the scene. People who witnessed this act are outraged; credibility of the Marine Corps in the area is tarnished

Implications and Training Marines (Continued)

Implications (Continued)

This fosters a mood of contempt among the locals. The mostly unemployed 17- to 30-year old population now is a little more apt to provide information to the insurgency, perhaps assisting in the employment of IEDs against coalition forces. Even worse, the people of the area are now even less cooperative to our efforts. Enemy activities gain more and more credibility.

If the incident is reported in the media, it is publicized even more to the rest of the world. Anyone with access to CNN can see the impact that can be made to our mission in this regard. Attacks increase. Casualties amongst US forces rise. Marines may become bitter to the local population. The security forces with whom we have been training and conducting combined operations for the last year lose credibility.

The potential repercussions are immeasurable. Will just one act lead to so many second and third order effects? Perhaps not. But one specific careless act or an intentional violation amongst all of the other friction that occurs on the battlefield can be a tipping point.

If we have the ability to prevent further friction as described above, we as officers of Marines, have the obligation to do everything in our power to mitigate these factors. It is the right thing for the Marines, our enemies and all others involved. And we accomplish this through training.

Training

A Marine can be easily be issued this text and ordered to read it in preparation for a subsequent examination. However, this type of "training" is not what will bring us success in these areas. You, as the lieutenant, the rifle platoon commander, the motor transport officer, etc. must have a solid grasp of these issues. In addition, we as officers need to be able to break all of this down to the level of the lance corporal who will be at the personal end of the fight on a day-to-day basis. Every Marine needs to be involved in discussions regarding potential situations that may be found on the battlefield.

Implications and Training Marines (Continued)

Training (Continued)

We must review all aspects of the fight, from weaponeering to the understanding of proportionate force. Training needs to be discussion and scenario based, thus forcing Marines to articulate their perceptions of and responses to the situations. “Wrong” answers should not be reprimanded but need to be explored further. This will take time, but we cannot allow wallflowers to escape participation. We must further empower subordinate unit leaders to continue the training at their levels.

The purpose of such training is to reinforce self-discipline. When the Marine witnesses his fire-team leader lose his limb and later his platoon commander killed in action; he understands that he is doing the right thing in not engaging the first military age male that he sees.

We must clearly explain the concept of second and third order effects that can occur out of indiscriminate actions. We operate in a decentralized environment that was unheard of years ago. The responsibility and weight of a squad leader and his decisions while operating 10 km from his platoon commander have never been more strategic in impact.

Another important issue that will be brought up later in the program of instruction will be the handling of detainees. If we catch a bad guy, we obviously want to keep him locked up. The initial actions of our Marines will have enormous impact.

When you arrive at your unit, you will not be the most proficient at operating a mortar system or a wrench on a 7-ton. You will, however, have the greatest understanding of the Law of War. As a lieutenant, you have the obligation to train your Marines to the same standard.

Rules of Engagement

- Joint Pub1-02, Dictionary of Military and Associated Terms defines Rules of Engagement (ROE) as those “[d]irectives issued by competent military authority that delineate the circumstances and limitations under which United States forces will initiate and/or continue combat engagement with other forces encountered.” Prior to 1954, there were not common ROE. In 1954, the Joint Chiefs of Staff made their first attempt at mandating a common set of ROE for a branch of the armed services. However, it was not until 1986 that the JCS issued Peacetime ROE for all U.S. forces. In 1994, the CJCS issued the first Standing Rules of Engagement (SROE). They were updated in 2000, and most recently in June 2005. Despite the relative recency of formally identified ROE, the basis and underpinning of ROE is firmly grounded in a variety of sources going back to the start of our country.
- As a practical matter, ROE perform three functions:
 - (1) Provide guidance from the President and Secretary of Defense to deployed units on the use of force for mission accomplishment and the exercise of the inherent right and obligation of unit self-defense;
 - (2) Act as a control mechanism for the transition from peacetime to combat operations (war); and
 - (3) Provide a mechanism to facilitate planning and training. ROE provide a framework that encompasses national policy goals, mission requirements, and the rule of law. Simply put, ROE define the way in which we can engage the enemy.

Purposes of Rules of Engagement

Political

ROE ensure that national policy and objectives are reflected in the action of commanders in the field, particularly under circumstances in which communication with higher authority is not possible. For example, in reflecting national policy and diplomatic purposes, the ROE may restrict the engagement of certain targets, or the use of particular weapons systems, out of desire not to tilt world opinion in a particular direction, or as a positive limit on the escalation of hostilities. Falling within the array of political concerns are such issues as the influence of international public opinion, particularly how it is affected by media coverage of a specific operation, the effect of host country law, and the presence of status of forces agreements (SOFAs).

Purposes of Rules of Engagement (Continued)

Military

ROE provide parameters within which the commander must operate in order to accomplish its assigned mission:

- ROE provide a ceiling on operations and ensure that U.S. actions do not trigger an undesired response or escalation.
- ROE may regulate a commander's means and method of warfare by granting or withholding the authority to use certain weapons, weapons system, or tactics.
- ROE may also reemphasize the scope of the mission. Units deployed overseas for training exercises may be limited to use of force only in self defense, reinforcing the training rather than combat nature of the mission.

Legal

ROE provide restraints on commander's actions consistent with both domestic and international law and may, under certain circumstances, impose greater restrictions on action than those required by the law. Commanders must be intimately familiar with the legal basis for their mission. The commander may issue ROE to reinforce principles of the Law of War, such as the general prohibitions on the destruction of religious or cultural property (when such property is used in accordance with its protected purpose), and minimization of injury to civilians and civilian property.

Rules of Engagement and National Security

US national security policy is guided, in part, by the need to maintain a stable international environment compatible with US national security interests. In addition, US national security interests guide our global objectives of:

- Deterring armed attack against the US across the range of military operations.
- Defeating an attack should deterrence fail.
- Preventing or neutralizing hostile efforts to intimidate or coerce the US by the threat or use of armed force or terrorist actions.

Deterrence requires clear and evident capability and resolve to fight at any level of conflict and, if necessary, to increase deterrent force capabilities and posture deliberately so that any potential aggressor will assess its own risks as unacceptable. US policy, should deterrence fail, provides flexibility to respond to crises with options that:

- Are proportional to the provocation.
 - Are designed to limit the scope and intensity of the conflict.
 - Will discourage escalation.
 - Will achieve political and military objectives.
-

Standing Rules of Engagement for US Forces

Overview

- *The Rules.* The new SROE, CJCSI 3121.01B (released 13 Jun 2005), updated the 2000 version of the SROE and added a section on the Rules of Force (RUF) for domestic operations. It provides guidance on the inherent right of self-defense and the application of force for mission accomplishment. It is designed to provide a common template for development and implementation of ROE for the full range of operations from peace to war. It is applicable worldwide to all echelons of command.
- *Applicability.* The SROE applies to all U.S. forces responding to military attacks within the US, to all military operations outside the US (unless superseded by other ROE that have been approved by the President or Secretary of Defense), and to domestic support operations (RUF). The SROE is a SECRET document and not available for public distribution. Portions of the introductory material are not classified as SECRET and may be available at your unit for training purposes. Contact your unit SJA for up-to-date training materials on ROE.
- *Responsibility.* The Secretary of Defense (SECDEF) approves ROE for US forces. Each geographic Combatant Commander is given the authority to request new ROE or restrict current ROE for their specific theater, but all restrictions on SECDEF approved ROE/RUF require notification to SECDEF. Commanders at all levels should consistently review the relevancy and utility of the SROE for their current area of operations and request changes as needed.
- *Purpose:* The purpose is twofold:
 - 1. Provide implementation guidance on the application of force for mission accomplishment, and
 - 2. Ensure the proper exercise of the inherent right of self-defense.

Standing Rules of Engagement for US Forces (Continued)

Deviations from the SROE

- US Forces Operating With Multinational Forces
 - o US forces assigned to the operational control (OPCON) or tactical control (TACON) of a multinational force,
 - Follow the ROE of the multinational force ONLY if authorized the SECDEF, and always retain the right to unit and individual self-defense to hostile act or hostile intent.
 - US forces under US OPCON, operating in conjunction with a multinational force, should make every reasonable effort to establish common ROE.
 - If common ROE cannot be established, US forces will operate under the SROE.
 - To avoid confusion, inform multinational forces (prior to US participation in the operation) of US forces' intentions to operate under our SROE and to exercise unit self-defense.
 - Additional guidance found in CJCSI 3121.01B, Enclosure A.
 - o Varying national obligations derived from international agreements may complicate participation in multinational operations. Other members of a coalition may:
 - Not be signatories to treaties that bind the US.
 - Be bound by treaties to which the US is not a party.
 - o US forces remain bound by US treaty obligations even if the other coalition members are not signatories to a treaty and need not adhere to its terms.
 - o Commanders of US forces subject to international agreements governing their presence in foreign countries (e.g., Status of Forces Agreements) must still exercise the inherent authority and obligation to use all necessary means available and to take all appropriate action for unit self-defense.

Standing Rules of Engagement for US Forces (Continued)

Deviations from the SROE (Continued)

- o US forces will always comply with the Law of Armed Conflict (also called the “Law of War”). However, not all situations involving the use of force are “international armed conflicts” as some are “internal armed conflicts” (civil war) or military operations other than war (MOOTW), e.g., peace operations, noncombatant evacuation operations, or humanitarian assistance. . . . Nonetheless, members of DoD shall comply with the Law of War during all armed conflicts, however such conflicts are characterized, and all other operations unless otherwise directed.
- Theater-Specific ROE.
 - o The SROE may be modified as necessary to reflect changing political and military policies, threats, and missions specific to a specific area of operations.
 - o There are two main types of modifications to the SROE:
 - Those that require combatant commander approval or higher.
 - Those that allow commanders to place further restrictions on the SROE for specific actions. These types of changes require that notification of the restriction is sent to the SECDEF.
 - o Any commander may request supplemental ROE. All requests, approvals, and notifications should be done by serialized message to ensure proper tracking of the current ROE. The mechanism for disseminating ROE supplemental measures is set forth in Enclosure I of CJCSI 3121.01B.

Standing Rules of Engagement for US Forces (Continued)

Self-Defense

- Inherent Right of Self-Defense. A commander has the authority and obligation to use all necessary means available and to take all appropriate action to defend that commander's unit and other US forces in the vicinity from a hostile act or a demonstration of hostile intent. The SROE do not limit a commander's inherent authority and obligation to use all necessary means available and to take all appropriate action in self-defense of the commander's unit and other US forces in the vicinity. At all times, the requirements of necessity and proportionality as amplified in the SROE, will form the basis for the commander's judgment as to what constitutes an appropriate response to a particular hostile act or demonstration of hostile intent.
- Three levels of self-defense:
 - o National Self-Defense - The act of defending from a hostile act or hostile intent that is committed against:
 - The US.
 - US forces.
 - In certain circumstances, US citizens and their property, and US commercial assets
 - o Collective Self-Defense.
 - The act of defending other designated non-US forces, personnel, or designated foreign nationals and their property from a hostile act or demonstration of hostile intent.
 - Only the President of the US/SECDEF may authorize US forces to exercise collective self-defense. The high approval authority for collective self-defense implicitly recognizes that our allies and/or coalition partners may have different obligations under, or interpretation of, international law that creates significant differences in our respective ROE. These differences need to be de-conflicted at the highest level of the chain of command.

Standing Rules of Engagement for US Forces (Continued)

Self-Defense (Continued)

o Unit and Individual Self-Defense.

- Unit and individual self-defense includes defense of other U.S. military forces in the vicinity.
- The previous version of the SROE had separate definitions for individual and self- defense. The new SROE links the two together. More importantly, the new SROE says that unit commanders can limit individual self-defense by members of their unit. **If a commander decides to exercise the right to “restrict” the individual right of self- defense, SECDEF must be notified** (notification is required whenever a commander restricts any portion of the SROE).
- When individuals assigned to a unit respond to a hostile act or demonstrated hostile intent in the exercise of self-defense, their use of force must remain consistent with lawful orders of their superiors, the rules contained in the SROE, and other applicable ROE promulgated for the mission or area of responsibility (AOR).

Standing Rules of Engagement for US Forces (Continued)

Three Principles of Self-Defense

Necessity. Exists when a “hostile act” occurs or a force or terrorist(s) exhibits “hostile intent”.

- Hostile Act
 - An attack or other use of force against the:
 - U.S.
 - U.S. Forces
 - In certain circumstances: US nationals and their property; US commercial assets; other designated non-US forces, foreign nationals, and their property.
 - Force used directly to preclude or impede the mission and/or duties of US forces, including the recovery of US personnel and vital US government property.
 - See CJCSI 3121.01B, Glossary for further amplification.
- Hostile Intent
 - The threat of **imminent** use of force against the:
 - U.S.
 - U.S. Forces.
 - In certain circumstances: US nationals and their property; US commercial assets; other designated non-US forces, foreign nationals and their property.
 - The threat of force to preclude or impede the mission and/or duties of US forces, including the recovery of US personnel and vital US government property.
- Things to consider:
 - When hostile intent is present, the right exists to use appropriate force, including armed force in self-defense by all necessary means available to deter or neutralize the potential attacker or, if necessary, to destroy the threat.

Standing Rules of Engagement for US Forces (Continued)

Three Principles of Self-Defense (Continued)

- “Imminent” use of force:
 - Use all facts and circumstances known to US forces at the time.
 - May be determined at any level.
 - Does not necessarily mean immediate or instantaneous.

De-escalate.

- When time and circumstances permit,
- Warn and give opportunity to withdraw.

Proportionality.

- Force used should be sufficient to respond decisively to the hostile act or demonstrated hostile intent and ensure the continued safety of US forces or other protected persons or property
 - Force used to counter a hostile act, or demonstrated hostile intent must be reasonable in nature, duration, and scope to the perceived or demonstrated threat based on all facts known to the commander at the time.
- Force used may exceed the means and intensity of the hostile act or hostile intent.
- Not the same as “proportionality” as discussed in the Law of War area, i.e. collateral damage.
- Commanders should consider the use of non-lethal weapons when responding to volatile situations during Security and Stabilization Operations (SASO) and operations other than war.

Standing Rules of Engagement for US Forces (Continued)

Hostile Force

Any civilian, paramilitary, or military force or terrorist(s) that has been declared hostile by appropriate US authority.

- Once an appropriate authority has declared a force hostile, US units need not observe a hostile act or a demonstration of hostile intent before engaging that force.

o The hostile force decision to engage only requires that US forces are able to distinguish declared hostile forces from non-declared hostile forces on the battlefield.

Hostile forces are can be distinguished by uniform, equipment, insignia, location, etc.

o Immediate Pursuit of Hostile Foreign Forces. In self-defense US forces may pursue and engage a hostile force that continues to commit hostile acts or exhibit hostile intent.

- The responsibility for exercising the right and obligation of national self-defense and as necessary declaring a force hostile is a matter of the utmost importance. All available intelligence, the status of international relationships, the requirements of international law, an appreciation of the political situation, and the potential consequences for the US must be carefully weighed.

Positive Identification (PID) -- Is it required, needed, useful?

“Positive Identification” (PID) is required for applies for some purposes of mission accomplishment (e.g., engaging a declared hostile force), but not in cases of self-defense (e.g., force used in response to a hostile act or demonstrated hostile intent).

- *Declared Hostile Forces* - The ability to reasonably identify (PID) the target as a member of the force that has been “declared hostile” applies the LOW principle of “distinction” wherein non-military targets (e.g., civilians or non-combatants) must be distinguished from military targets (e.g., enemy combatants, to include unlawful combatants or unprivileged belligerents).

Standing Rules of Engagement for US Forces (Continued)

Positive Identification (PID) -- Is it required, needed, useful? (Continued)

- *Self-defense* arises from a hostile act (e.g., you are actually shot at) or a hostile intent (e.g., you are about to be shot at) that then creates a 100% certainty you now have a military target (i.e., the person trying to kill you). To use force in self- defense against this HA or HI threat does NOT require PID as to the identity of who is targeting you. The threat (i.e., a lawful military target), could be a bona fide uniformed enemy combatant, a terrorist, or other unlawful combatant (e.g., child-soldier). To engage such a threat in self-defense all that is required is to use the force necessary to stop the threat and, as military circumstances permit, minimize collateral damage to civilian objects and incidental injury to civilian persons.
 - Even though PID is not required for HA or HI self-defense situations, you may see it listed in your ROE as a further restraint or control on your ability to engage enemy forces. This restraint or control may be based on military or political reasons. PID can be a very useful tool to help minimize collateral damage when non-declared hostile fighters or insurgents are mixed in among an innocent civilian population.

Training

Responsibility.

- *Commanders are responsible for developing and issuing ROE.* Judge advocates play a significant advisory role in the ROE process, but the ultimate responsibility for the ROE lies with the commander. In the implementation of the SROE and other ROE, commanders have the obligation to ensure that the individuals within that commander's unit understand when and how they may use force in self-defense.
- It is critical that all individuals are aware of and train to the principle that they have the authority to use all available means and to take all appropriate actions to defend themselves and other US personnel in their vicinity. This means that not only commanders, but small unit leaders must continuously train their Marines in the knowledge and application of ROE.

Training (Continued)

Techniques.

- Although classroom-type training can be a good introduction to the Law of War and Rules of Engagement, the most effective methods of training Marines in ROE are discussion groups, scenario based training, and the use of pocket cards.
- Marines should be questioned on their understanding of key terms such as hostile act, hostile intent, self-defense, and hostile force. Scenario based training should be conducted in such a way that the scenarios represent situations which Marines might encounter in their specific theater.
- Pocket cards are a good memorization tool, but should not be used as a replacement for training. Marines will not have time during a firefight to pull out their pocket card for guidance. They need to train with scenarios and pocket cards to the point where the ROE are second nature and instinct to them. An example of a pocket card follows.

Supplemental Rules of Engagement Card (Sample)

CFLCC ROE CARD

1. On order, enemy military and paramilitary forces are declared hostile and may be attacked subject to the following instructions:

a. Positive Identification (PID) is required prior to engagement. PID is a reasonable certainty that the proposed target is a legitimate military target. If no PID, contact your next higher commander for a decision.

b. Do not engage anyone who has surrendered or is out of battle due to sickness or wounds.

c. Do not strike any of the following except in self defense to protect yourself, your unit, friendly forces, and designated persons or property under your control:

- Civilians.
- Hospitals, mosques, churches, shrines, schools, museums, national monuments, and other historical and cultural sites.

d. Do not fire into civilian populated areas or buildings unless the enemy is using them for military purposes or if necessary for your self-defense. Minimize collateral damage.

e. Do not target enemy Infrastructure (public works, commercial communications facilities, dams), Lines of Communication (roads, highways, tunnels, bridges, railways) and Economic Objects (commercial storage facilities, pipelines) unless necessary self-defense or if ordered by your commander. If you must fire on these objects to engage a hostile force, disable and disrupt but avoid destruction of these objects, if possible.

Supplemental Rules of Engagement Card (Sample) (Continued)

2. The use of force, including deadly force, is authorized to protect the following:
 - Yourself, your unit and friendly forces.
 - Enemy Prisoners of War.
 - Civilians from crimes that are likely to cause death or serious bodily harm, such as murder and rape.
 - Designated civilians and/or property, such as personnel of the Red Cross/Crescent, UN, and US/UN supported organizations.
3. Treat all civilians and their property with respect and dignity. Do not seize civilian property, including vehicles, unless you have the permission of company level commander and you give receipt to the property's owner.
4. Detain civilians if they interfere with mission accomplishment or if required for self- defense.
5. CENTCOM General Order No. 1A remains in effect. Looting and the taking of war trophies are prohibited.

REMEMBER:

Attack enemy forces and military targets.

Spare civilian and civilian property, if possible. Conduct yourself with dignity and honor.

Comply with the Law of War. If you see a violation, report it.

These ROE will remain in effect until your commander orders you to transition to post- hostilities ROE.

Summary

The end-state is that we will treat all enemies as if they are protected under the Law of War. Higher command will decide whether that detainee requires different classification. This simplifies our approach to the fight and allows us to engage all hostile parties in accordance to the principles outlined above and with the utmost professionalism at all times regardless of circumstances.

To conclude, this student handout discussed two different topics: the Law of War and Rules of Engagement (ROE). Law of War included the definition and evolution of the Law of War, the different principles, classification of persons on the battlefield, lawful weapons and tactics, implications associated with violations of the Law of War, and training of our Marines. ROE define the way in which we can engage the enemy.

References

Reference Number or Author	Reference Title
CJCSI 3121.01B	Department of Defense Law of War Program
DA Pam 27-161-2	International Law Volume II
JCS Pub 1-02	Department of Defense Dictionary of Military and Associated Terms
MCO 3300.4	USMC Law of War Program
MCRP 5-12.1A	The Law of Land Warfare
MCRP 6-11B	Discussion Guide for Marine Corps Values
SECNAVINST 1000.9	Code of Conduct for Members of the Armed Services

Glossary of Terms and Acronyms

Term or Acronym	Definition or Identification
AOR	Area of responsibility
EPW	Enemy prisoner of war
IED	Improvised explosive device
JCS	Joint Chiefs of Staff
mm	Millimeter
MOOTW	Military operations other than war
OPCON	Operational control
PID	Positive identification
Pub	Publication
ROE	Rules of Engagement
RUF	Rules of Force
SECDEF	Secretary of Defense
SASO	Security and Stabilization Operations
SOFA	Status of Forces Agreement
St.	Saint
SROE	Standing Rules of Engagement
TACON	Tactical Control
US	United States

Notes
